



U.S. Department  
of Transportation

**Federal Transit Administration**  
Region III  
1835 Market Street, Suite 1910  
Philadelphia, PA 19103  
(215) 656-7100  
(215) 656-7260 (fax)

**Federal Highway Administration**  
Virginia Division  
400 N. 8th Street, Suite 750  
Richmond, VA 23219  
(804) 775-3320  
(804) 775-3356 (fax)

March 3, 2025

Mr. Stephen Brich  
Commissioner  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

**Re: Joint FHWA/FTA Conformity Finding for the Hampton Roads Transportation Planning Organization; Hampton Roads, Virginia**

Dear Mr. Brich:

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are required to make a transportation conformity determination in non-attainment and maintenance areas as outlined in 40 CFR § 93.104 and 23 CFR § 450. FHWA and FTA have completed our review of the Hampton Roads Transportation Planning Organization's (HRTPO) Air Quality (AQ) Conformity Analysis adopted by the HRTPO on November 21, 2024, and submitted for review by letter dated November 25, 2024. The FHWA and FTA have coordinated the review of the AQ Conformity Analysis with the Environmental Protection Agency (EPA) and are jointly making this air quality conformity determination.

This determination was triggered by amendments to the 2045 Long-Range Transportation Plan (LRTP) and Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP), and the AQ Conformity Analysis is based on those amended documents. The last air quality conformity determination was made on June 12, 2024.

As a result of *South Coast Air Quality Mgmt. District v. EPA* ("South Coast II," 882 F.3d 1138) court decision, the HRTPO is no longer required to demonstrate conformity through regional emissions analysis for the Hampton Roads Area. However, other conformity requirements, including the latest planning assumptions, interagency and public consultation, and fiscal constraint must still be addressed in the conformity assessment under the 1997 8-hour ozone NAAQS for the Hampton Roads Area. On January 22, 2025, in a letter to FHWA's Virginia Division, the EPA provided their determination that the conformity determination for the 1997 8-hour ozone NAAQS for the Hampton Roads Area meets the requirements of the CAA, and included technical documentation supporting the conformity finding.

FTA and FHWA find that the analysis provided by HRTPO to demonstrate conformity is consistent with EPA's Transportation Conformity Rule (40 CFR § 93), as amended. FTA and FHWA find that the updates to the 2045 LRTP and FY 2024-2027 TIP were developed based on

a continuing, cooperative, and comprehensive transportation planning process carried out by HRTPO and their state partners in accordance with the requirements of 23 USC § 134 and 49 USC § 5303.

Based on our transportation planning regulatory requirements, our day-to-day involvement, review of technical analysis, and in accordance with the provisions of 23 USC § 134(i)(2)(E), 49 USC § 5303, FTA and FHWA find the financial information needed to support our fiscal constraint determination is complete.

Any questions concerning this approval should be directed to Steven Minor, FHWA-Virginia Division, at (804) 775-3359, or Chelsea Beytas, Community Planner, FTA Region III, at (215) 656-7961.

Sincerely,

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Terry Garcia Crews  
Regional Administrator  
Federal Transit Administration

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Edward Sundra  
Director of Program Development  
Federal Highway Administration

cc: Mr. Robert Crum, Jr., HRTPO  
Ms. Pavithra Parthasarathi, HRTPO  
Mr. Ben Mannell, VDOT  
Mr. Eric Stringfield, VDOT  
Mr. Christopher Berg, VDOT  
Mr. James Ponticello, VDOT  
Mr. Christopher Voigt, VDOT  
Mr. Daniel Suarez, FHWA  
Mr. Steven Minor, FHWA  
Mr. Ivan Rucker, FHWA  
Mr. Tony Tarone, FTA  
Ms. Laura Keeley, FTA  
Ms. Chelsea Beytas, FTA  
Mr. Daniel Sommerville, FTA  
Ms. Cristina Fernández, EPA  
Ms. Megan Goold, EPA  
Mr. Gregory Becoat, EPA  
Ms. Cara Finn, EPA



### REGION 3

PHILADELPHIA, PA 19103

Mr. Edward Ofori  
Deputy Division Administrator  
Federal Highway Administration  
Virginia Division  
400 N. 8th Street, Suite 750  
Richmond, Virginia 23219

Dear Mr. Ofori:

The United States Environmental Protection Agency (EPA) has reviewed the conformity determinations for the Hampton Roads Transportation Planning Organization (HRTPO) for the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP) and the 2045 Long-Range Transportation Plan (LRTP). EPA has reviewed the conformity determinations in accordance with the procedures and criteria of the Transportation Conformity Rule contained in 40 CFR part 93.

EPA's review of the conformity determinations indicates that the determination meets the requirements of the Clean Air Act and the applicable regulations promulgated under 40 CFR part 93. Enclosed, please find EPA's detailed evaluation titled "Technical Support Document (TSD) - Review of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) Conformity Determination for the Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP) and the 2045 Long-Range Transportation Plan (LRTP) for the Hampton Roads Transportation Planning Organization (HRTPO)." It should be noted that in the technical support document, EPA is deferring to the Federal Highway Administration (FHWA) on the question of whether the 2045 LRTP and TIP are fiscally constrained. EPA concurs on the overall conformity determination based on the FHWA's determination that the 2045 LRTP and TIP are fiscally constrained.

Please feel free to call Mr. Michael Gordon, Chief, Planning & Implementation Branch, at (215) 814-2039 or Mr. Gregory Becoat, at (410) 305-3026 if you have any questions pertaining to this review.

Sincerely,

Cristina Fernández, Director  
Air and Radiation Division

Enclosure: Technical Support Document (TSD) - Review of the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Conformity Determination for the Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP) and the 2045 Long-Range Transportation Plan (LRTP) for the Hampton Roads Transportation Planning Organization (HRTPO)

Cc: Steven Minor, FHWA (via email at [steven.minor@dot.gov](mailto:steven.minor@dot.gov))  
Ed Sundra, FHWA (via email at [ed.sundra@dot.gov](mailto:ed.sundra@dot.gov))  
Chelsea Beytas, FTA (via email at [chelsea.beytas@dot.gov](mailto:chelsea.beytas@dot.gov))  
Jim Ponticello, VDOT (via email at [jim.ponticello@vdot.virginia.gov](mailto:jim.ponticello@vdot.virginia.gov))  
Robert Crum, HRTPO (via email at [rcrum@hrtpo.org](mailto:rcrum@hrtpo.org))



## REGION 3

PHILADELPHIA, PA 19103

**SUBJECT:** Technical Support Document (TSD) - Review of the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Conformity Determination for the Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP) and the 2045 Long-Range Transportation Plan (LRTP) for the Hampton Roads Transportation Planning Organization (HRTPO)

**FROM:** Gregory A. Becoat  
Planning & Implementation Branch (3AD30)

**TO:** Administrative Record of the Environmental Protection Agency (EPA) Review of the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Conformity Determination for the Fiscal Year (FY) 2024-2027 Transportation Improvement Program (TIP) and the 2045 Long-Range Transportation Plan (LRTP) for the Hampton Roads Transportation Planning Organization (HRTPO)

**THRU:** Michael Gordon, Chief  
Planning & Implementation Branch (3AD30)

### I. Background

The purpose of this document is to review the 1997 8-hour ozone NAAQS Conformity Determination of the FY 2024-2027 TIP and the 2045 LRTP as prepared by the Hampton Roads Transportation Planning Organization (HRTPO) and Virginia Department of Transportation (VDOT). The purpose is to determine whether or not the conformity determinations meet the requirements of the Clean Air Act (CAA) and the applicable regulations promulgated thereunder at 40 CFR part 93. On December 3, 2024, EPA Region III received the FY 2024-2027 TIP and 2045 LRTP conformity determination from the Virginia Division of the United States Federal Highway Administration (FHWA) requesting EPA to review.

The amendments to the FY 2024-2027 TIP and 2045 LRTP were completed in order to adhere to the transportation conformity rule requirements. The conformity determinations were reviewed in accordance with the procedures and criteria of the Transportation Conformity Rule contained in 40 CFR part 93, sections 93.108, 93.110, 93.112, 93.113(b), and (c).

Transportation conformity is required under section 176(c) of the CAA to ensure that federally supported highway and transit projects, and other activities are consistent with (conform to) the purpose of the state implementation plan (SIP). The CAA requires federal actions in nonattainment and maintenance areas to "conform to" the goals of the SIP. This means that such actions will not cause or contribute to violations of a NAAQS; worsen the severity of an existing

violation; or delay timely attainment of any NAAQS or any interim milestone. Actions involving FHWA or Federal Transit Administration (FTA) funding or approval are subject to the Transportation Conformity Rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies (EPA, FHWA, and FTA) to demonstrate that their metropolitan transportation plans and TIPs conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emission budgets (MVEBs) contained in a SIP.

On April 30, 2004 (69 FR 23857), EPA published air quality area designations for the 1997 8-hour ozone NAAQS. In that rulemaking action, EPA designated the Counties of Gloucester, Isle of Wight, James City, and York, and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, VA as part of the Hampton Roads nonattainment area. On June 1, 2007 (72 FR 20490), EPA redesignated the Hampton Roads Area to attainment for the 1997 8-hour ozone standard. On May 21, 2013, EPA published a rule revoking the 1997 8-hour ozone NAAQS, for the purposes of transportation conformity, effective one year after the effective date of the 2008 8-hour ozone NAAQS area designations (77 FR 30160). On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“South Coast II,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 8-hour ozone NAAQS and attainment for the 2008 8-hour ozone NAAQS when the 1997 8-hour ozone NAAQS was revoked. These conformity determinations are required after February 16, 2019. The Hampton Roads Area was maintenance at the time of the 1997 8-hour ozone NAAQS revocation on April 6, 2015 and was also designated attainment for the 2008 8-hour ozone NAAQS on May 21, 2012. As a result, the HRTPO is no longer required to demonstrate conformity through regional emissions analysis for the Hampton Roads Area. However, other conformity requirements, including the latest planning assumptions, interagency and public consultation, and fiscal constraint must still be addressed in the conformity assessment under the 1997 8-hour ozone NAAQS for the Hampton Roads Area.

## **II. EPA’s Evaluation**

For all areas where transportation conformity applies, Table 1 – Conformity Criteria, found in 40 CFR 93.109(b), lists the conformity criteria that apply for transportation plans, TIPs, and projects in 40 CFR 93. This conformity determination analysis must use the latest planning assumptions (40 CFR 93.110). In addition, other requirements must be met and documented in the transportation plan and TIP conformity determination including fiscal constraint (40 CFR 92.108), interagency consultation and public participation (40 CFR 93.112), and timely implementation of Transportation Control Measures (TCMs) in approved SIPs (40 CFR 93.113). Table 1 below demonstrates how the document prepared by HRTPO satisfies the requirements for conformity determinations.

<b>Table 1. EPA’s Evaluation of the Conformity Determinations of the Plan and TIP Submitted by the Virginia Division Office of the Federal Highway Administration for the</b>
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**Counties of Gloucester, Isle of Wight, James City, and York, and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, VA to EPA on December 3, 2024**

CRITERIA APPLICABLE TO PLAN AND/OR TIP			
SECTION OF 40 CFR PART 93	CRITERIA	Y/N	COMMENTS
93.108	Is the transportation plan fiscally constrained?	Y	EPA is deferring to FHWA, which has determined that the plan is fiscally constrained.
93.110 (a-f)	Is the conformity determination based upon the latest planning assumptions?	N/A	The use of latest planning assumptions in 10 CFR 93.110 of the conformity rule generally applies to a regional emissions analysis. In the 1997 ozone NAAQS areas, the use of latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP. However, the HRTPO SIP maintenance plan does not include any TCMs.
93.112	Did the MPO make the conformity determination according to the consultation procedures of the conformity rule or the state's conformity SIP?	Y	<p>Consultation procedures were followed in accordance with the HRTPO consultation procedures. These procedures are based on the procedures of the Commonwealth's conformity SIP.</p> <p><b><u>Interagency Consultation</u></b> The HRTPO has consulted with all appropriate agencies. This includes the VDOT, VADEQ, FHWA, FTA, EPA, and representatives from larger MPOs within the Commonwealth of Virginia.</p> <p><b><u>Public Consultation</u></b> The HRTPO has provided opportunities for public comment from October 30, 2024 through November 13, 2024, and no comments were received.</p>
93.113(b) and 93.113(c)	Are TCM's being implemented in a timely manner.	N/A	There are no TCMs in any applicable SIPs.

### III. Conclusion

Pursuant to FHWA's December 3, 2024 request, EPA has reviewed the air quality conformity determination for the FY 2024-2027 TIP and 2045 LRTP submitted by HRTPO. EPA has determined that the conformity determination for the 1997 8-hour ozone NAAQS for the Hampton Roads Area meets the requirements of the CAA and the applicable regulations promulgated at 40 CFR part 93 as long as FHWA determines that the TIP and plan demonstrate fiscal constraint.